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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,800	03/15/2001	Mark Hamilton Jones	5450 PA02	6814
7590	12/29/2003		EXAMINER	
Thomas J. Tighe, Esq. 6265 Greenwich Drive, Suite 103 San Diego, CA 92122			MENDIRATTA, VISHU K	
			ART UNIT	PAPER NUMBER
			3722	
DATE MAILED: 12/29/2003 12				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/810,800	JONES, MARK HAMILTON
	<b>Examiner</b>	<b>Art Unit</b>
	Vishu K Mendiratta	3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 October 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2-14 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \*    c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14: The structure of the claimed apparatus is not clear. Claim limitation of a roulette ball coming to rest on a numbered slot on a wheel (14b) is contradictory to the wheel being absent in the apparatus (14a).

Further the limitation "can come to rest" is not definite. In the absence of a clear structure of the claimed apparatus, it is not possible to practice the game.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claim 14 rejected under 35 U.S.C. 102(b) as being anticipated by Orselli (5,540,442).

Claim 14: Orselli teaches a table having roulette game indicia for placing bets thereupon (102), a number selector for selecting a random number (142) and a display (140) for displaying the selected number.

2. Claims 14, 7,8,10,11 rejected under 35 U.S.C. 102(e) as being anticipated by Herman (US 2002/0167126 A1).

Claim 14,7,10: Herman teaches a computerized version of roulette table having game indicia (12), a processor/selector of random numbers (page 3, paragraph 0059).

Claims 8,11: Herman teaches randomly selecting numbers 1-38, including numbers 37 and 38 (paragraph 0042).

#### ***Claim Rejections - 35 USC § 103***

3. Claims 2, 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Orselli in view of Salvucci (4,508,346) and

Claim 2, 4: Orselli teaches all limitations except that it does not teach a ball selector randomly selecting one of a plurality of balls.

Salvucci teaches a ball selector (Fig.1) randomly selecting one ball (2:64-68) from plurality of numbered balls (2:20-24).

Salvucci teaches that there are various methods known for selecting a random number (1:15-17). Salvucci further teaches that players often feel cheated in various random number devices including a roulette wheel (1:37-39). This is due to touching of operating elements (1:45-47).

A ball selector device operating with the help of a stream of air does not need the operator to touch any of the operating elements and eliminates the feeling of being cheated.

In order to eliminate the feeling of being cheated, it would have been obvious to use a random number selector device that does not require the operator to touch the operating element.

One of ordinary skill in art at the time the invention was made would have suggested removing a wheel from the conventional roulette apparatus and replace it with a ball selector device of Salvucci in order to restore player confidence in the game.

4. Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over Orselli in view of Salvucci as applied to claim2 above, and further in view of Ex parte Breslow 192 USPQ 431.

Claim 3: Orselli teaches all limitations except that it does not teach a ball selector randomly selecting one of 38 balls including balls marked 1-38.

Salvucci teaches that the ball selector device is capable of being used for playing roulette (1:37-39). It is well known from the roulette game that the indicia are selected from one of 38 different numbers.

In order to realistically simulate a roulette game, it would have been obvious to use 38 balls with numbers indicia.

One of ordinary skill in art at the time the invention was made would have suggested using 38 balls for realistic simulation of roulette game.

Further, Salvucci teaches that the ball selector device as demonstrated (Fig.1) can be used with any variation in the art area (4:7-15).

Accordingly using indicia including numbers 37 and 38 would be a variation of the printing matter.

Ex parte Breslow teaches that the difference residing in meaning and information conveyed by the printed matter are not patentable.

The only difference between printing numbers "37" and "38" in place of regular "0" and "00" would be in the meaning and information conveyed by the printed matter, and would not be considered as patentable differences.

One of ordinary skill in art at the time the invention was made would have suggested using 38 selectable balls with indicia including 38.

5. Claim 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Orselli in view of Salvucci as applied to claim2 above, and further in view of Santora.

Orselli and Salvucci teach all limitations except that they do not teach providing structure with a camera for viewing the simulating ball.

Santora teaches a camera (44) mounted above the roulette wheel (12), display screen (12) displaying the selected number.

In playing a game where the game result depends on the outcome of a random device, all players are always anxious to see the resulting random number. At times when there are a large number of players participating in the game, it becomes difficult for all players to see the spinning balls or wheel.

Santora places a camera on the spinning wheel and displaying a selected number on a monitor (28). This makes it easy on all players to see the resulting random number easily and quickly.

In order to make the game easy on players for seeing the selected number easily and quickly, it would have been obvious to place a camera structure for displaying the selected number in full vies of the players.

One of ordinary skill in art at the time the invention was made would have suggested placing a camera structure on Orselli wheel as replaced with a ball selector of Salvucci.

6. Claim 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Orselli in view of Ex parte Breslow 192 USPQ 431.

Orselli teaches all limitations except that it does not teach placing indicia 37 and 38 in place of 0 and 00.

Ex parte Breslow teaches that the difference residing in meaning and information conveyed by the printed matter are not patentable.

The only difference between printing numbers "37" and "38" in place of regular "0" and "00" would be in the meaning and information conveyed by the printed matter, and would not be considered as patentable differences.

In order to create a variation, it would have been obvious to place any number indicia on the roulette table, however simply changing the indicia will not create a patentable variation.

In order to create a variation in the roulette table, it would have been obvious to place any numbered indicia on the table including 37 and 38 replacing 0 and 00.

One of ordinary skill in art at the time the invention was made would have suggested using indicia 37 and 38 replacing 0 and 00 for creating a variation in the roulette table.

7. Claim 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Herman in view of official notice.

Herman teaches a display (22), but does not expressly indicate a CRT display.

CRT displays are common type of displays used in the art area of table games due to their popularity. In order to make the game popular, it would have been obvious to use CRT displays. One of ordinary skill in art at the time the invention was made would have used CRT displays in order to make the game popular.

8. Claims 12-13 rejected under 35 U.S.C. 103(a) as being unpatentable over Herman in view of Smith (6264200) and further in view of official notice for a card shuffler.

Herman teaches all limitations except that it does not teach the selector being a deck of cards.

Smith teaches a deck of cards used for selecting a single random card (abstract).

Smith further teaches that a lot of people find it uncomfortable playing a game using wheels. People are more comfortable playing games using cards. This is mostly for the reason that people feel they will be cheated in the game.

In order to bring player confidence it would have been obvious to replace wheel in the Herman reference with a deck of cards.

One of ordinary skill in art at the time the invention was made would have used cards in place of a wheel in order to bring confidence in the players that they will not be cheated.

Further Herman does not teach using a shuffler for dealing cards.

In the art area of table games common practices of dealing cards are dealing by hand or dealing by a shuffler.

Players often feel cheated when a dealer deals cards by hand. Using a shuffler eliminates the feeling of being cheated.

In order to bring player confidence in the game, it would have been obvious to use a shuffler for dealing cards. One of ordinary skill in art at the time the invention was made would have suggested using a shuffler for player confidence.

***Response to Arguments***

9. Applicant's arguments with respect to claims 2-14 have been considered but are moot in view of the new ground(s) of rejection.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (703) 306-5695. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (703) 308-2159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Vishu K Mendiratta  
Examiner  
Art Unit 3722

VKM  
December 17, 2003